IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 169 OF 2006
IN
ARBITRATION PETITION NO. 389 OF 2005

Bharat Sanchar Nigam Limited ....Appellant

Versus

M/s. Eskay Engineers ....Respondent

Mr. Vikas Shinde, instructed by M/s. Shukla & Associates, for the appellant.
Mr. S.C. Gupte, instructed by Mr.V.L. Panjuani for the respondent.

CORAM: **KSHITIJ R. VYAS, C.J.** &
ABHAY S. OKA, J.

DATE: JUNE 26, 2006.

P.C.

Heard the learned counsel for the parties.

2. The appellant is challenging the order of the learned single Judge dated 9th January, 2006 in Arbitration Petition No. 389 of 2005 by which the petition preferred by the appellant has been dismissed.

3. The learned counsel for the appellant submitted that the report of joint verification was incomplete and, therefore, it was not accepted. He has also submitted that the first respondent was not co-operating in the joint verification of the work. In our opinion, this

contention has no merit. The learned single Judge has also found that the submission has no merit. The appellants could have raised the contention before the Arbitrator. Apart from that, the learned counsel appearing for the appellants has submitted that the appellants would have to pay a substantial amount being public money, without examining the correctness of the case. He also submitted that the entire dispute be re-examined by the Verification Committee. We also see no merit in these submissions. As recorded by the learned single Judge, it is an admitted fact that respondent no.1 had carried out the work and that it is required to be paid. The appellants failed to produce any report on the basis of which it was willing to make the payment. Not only that, the Verification Committee was appointed by the appellant itself and, therefore, it was not proper for the appellant to make any grievance against the Verification Committee. In our opinion, the appellant is liable to make the payment as per the report of the Verification Committee. Apart from that, the Arbitrator who passed the Award was none else but the General Manager of the appellant.

4. Taking an overall view of the matter, we hardly see any merit in the appeal. There being so substance in the appeal, the same is dismissed.

CHIEF JUSTICE

ABHAY S. OKA, J.